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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,534	03/10/2006	Iwao Yamazaki	04173.0506	8064
22852	7590	11/23/2010	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			FARAH, AHMED M	
			ART UNIT	PAPER NUMBER
			3769	
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			11/23/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/571,534

**Applicant(s)**

YAMAZAKI, IWAO

**Examiner**

Ahmed M. Farah

**Art Unit**

3769

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7-10 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 6, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date 6/3/2010
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-10 and 14-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 8 recites "irradiation mechanism and tip portions contacted with skin surface" in lines 10-11. One cannot positively recite any portion or parts of body tissue.

Appropriate correction such as --light irradiation mechanism and tip portions adapted/ configured to contact the skin surface-- is suggested.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5, 7, and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hiroyasu et al., JP 10-015006.

Hiroyasu et al. disclose a handheld motorized massage apparatus for massaging and stimulating a patient's scalp, the apparatus comprising: a housing incorporating electrical components (see Fig. 1); a first and second groups of brushes mounted on separate, electrically driven plates (see Figs. 8 and 9); and derive mechanism adapted to reciprocate said first and second brush groups respectively in a direction along the skin surface such that approach and separation of the tip portions of the brush groups are repeated as presently claimed (see Fig. 10).

Hiroyasu et al. do not teach a waterproof sealing member adapted to seal the electrical components in the housing. However, the examiner notes that the use of waterproofing member for sealing and insulating electrical components in a medical or therapeutic handpiece is known in the art.

Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Maurer US Patent No. 5,876,206.

Maurer discloses an electrical toothbrush comprising: a housing incorporating electrical components, tooth-cleaning bristles, a drive unit and motion transmitters operating between the drive unit and the tooth-cleaning bristles; and a first and second groups of tooth-cleaning bristles mounted on a separate, electrically driven plates (see Figs. 4a-4c); wherein the derive unit reciprocate said first and second tooth-cleaning groups respectively in a direction along the surface of a tooth such that approach and separation of the tip portions of the tooth-cleaning groups are repeated as claimed .

Maurer does not teach a waterproof sealing member adapted to seal the electrical components in the housing. However, the examiner notes that it is known in the art to use a waterproofing system for sealing and insulating electrical components in a medical/therapeutical handpiece, such as surgical handpieces, toothbrushes, etc.

Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hegemann et al. US Patent No. 7,575,328 in view of Maher US Patent No. 4,164,670.

Hegemann et al. disclose an electrical toothbrush comprising: a housing incorporating electrical components (see Fig. 1); a first and second groups of brushes mounted on separate, electrically driven plates (see Fig. 3A); and derive mechanism adapted to reciprocate said first and second brush groups respectively in a direction along the skin surface such that approach and separation of the tip portions of the brush groups are repeated as presently claimed (see Figs. 1, 5A-5C, and 7A).

With respect to claims 4, the toothbrush housing further comprises a first and second casing for accommodating the electrical components and the brush groups, and an attachment/detachment mechanism for joining said first and second casings as claimed (see Figs. 1-3A).

Hegemann et al. do not teach a waterproof/sealing member adapted to seal the electrical components in the housing. However, the examiner notes it is known technique in the art to use a waterproofing member for sealing and insulating electrical components in a handpiece such as electrical toothbrushes. Mehar discloses

waterproofing system for use with handpieces containing electrical components, such as electrical toothbrushes, to seal and insulate the electrical components from external wetness (see col. 1, lines 43-47). Hence, at the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify Hegemann et al. in view of Mehar and use a waterproofing system to insulate electrical components in the handpiece from the external wetness (i.e. humidity and water), which is mostly present during the use of the toothbrush.

***Allowable Subject Matter***

Claims 6, 11, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: although the use of toothbrushes and hairbrushes comprising treatment and/or illumination light source(s) is known in the art, the prior art of record fails to teach a brush and/or a stimulating apparatus such as toothbrush, hairbrush or massaging system comprising a combination of both treatment/illuminating light source and a rotating/reciprocation brushing means as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johnson Henry can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmed M Farah/  
Primary Examiner, Art Unit 3769

November 20, 2010.